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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,430	06/14/2001	Edward G. Tiedemann JR.	PA341AC1	1169
23696	7590	03/24/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/882,430	TIEDEMANN, EDWARD G.
	<b>Examiner</b>	<b>Art Unit</b>
	Steven HD Nguyen	2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 June 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/14/01</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: Page 1, line 8, after "invention", the applicant should insert -- now USP 6307849 --.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 7 is objected to because of the following informalities: Claim 7, line 1, "the step of" must be removed. Appropriate correction is required.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 2-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 13, 18, 26-27 of U.S. Patent No. 6307849 in view of Chheda (USP 6160999).

Regarding claims 2 and 7, The patent '849 discloses means for identifying a plurality of base stations in an Active set of a mobile station in a handoff process among said plurality of base stations, means for measuring at said mobile station respective signal qualities of pilots

respectively transmitted by said base stations in said Active set of said mobile station, means for comparing said respective signal qualities of said pilots to a standard, said standard determined in response to said signal quality of at least one of said pilots in said active set and a delta value of signal quality, wherein said delta value is a representative of a fixed signal level below a strongest pilot signal level of said pilots (See claim 1 includes the steps of measuring the pilot signals from the identified pilot in the active set of the mobile and comparing the measured pilots etc... in order to determine which the measured pilot signal is equal or surpass the standard).

However, The patent '849 fails to discloses means for determining which of said base stations are to transmit respective code channels to said mobile station and which are not to transmit respective code channels to said mobile station based on whether which of said pilots at said mobile station equal or surpass said standard in said handoff process among said plurality of base stations. In the same field of endeavor, Chheda discloses a method and system for determining which base stations are to transmit the forward channels to the mobile and are not to transmit the forward channels to the mobile based on the receiving report from the mobile (Col. 4, lines 1-22).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for determining which base stations should transmit to the mobile and should not transmit to the mobile based on the received report from the mobile as disclosed by Chheda into the Patent 6307849. The motivation would have been to prevent a call to be dropped and reduce interference.

Regarding claims 3 and 8, a claim 13 of patent '849 encompasses these claims.

Regarding claims 4 and 9, a claim 18 of patent '849 encompasses these claims.

Regarding claims 5 and 10, a claim 26 of patent '849 encompasses these claims.

Regarding claims 6 and 11, a claim 27 of patent '849 encompasses these claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
3/11/05